

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: :
ACTAVA TV, INC., et al., : Docket #1:18-cv-06626-
 : ALC-KNF
 :
Plaintiffs, :
 :
- against - :
 :
JOINT STOCK COMPANY "CHANNEL ONE : New York, New York
RUSSIA WORLDWIDE," et al., : February 8, 2019
 :
Defendants. : TELEPHONE CONFERENCE
----- :

PROCEEDINGS BEFORE
THE HONORABLE JUDGE KEVIN N. FOX,
UNITED STATES DISTRICT COURT MAGISTRATE JUDGE

APPEARANCES:

For Plaintiff: MOSES & SINGER LLP
BY: TOBY M. BUTTERFIELD, ESQ.
MICHAEL M. ROSENBERG, ESQ.
405 Lexington Avenue - 12th Floor
New York, New York 10174-1299
585-613-8682

For the Defendant: DUNNINGTON BARTHOLOW & MILLER, LLP
BY: HARDIN P. ROWLEY, ESQ.
250 Park Ave.
New York, New York 10177
212-682-8811

Transcription Service: Carole Ludwig, *Transcription Services*
141 East Third Street #3E
New York, New York 10009
Phone: (212) 420-0771
Fax: (212) 420-6007

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APPEARANCES CONTINUED:

For the Defendant:

DUNNINGTON, BARTHOLOW & MILLER, LLP
BY: RAYMOND J. DOWD, ESQ.
1359 Broadway
New York, New York 10018
212-682-8811

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<u>Witness</u>	<u>Direct</u>	<u>Cross</u>	<u>Re- Direct</u>	<u>Re- Cross</u>
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None

E X H I B I T S

<u>Exhibit Number</u>	<u>Description</u>	<u>ID</u>	<u>In</u>	<u>Voir Dire</u>
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None

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THE CLERK: Actava TV, Inc., et al v. Joint Stock Company "Channel One Russia Worldwide," et al; case No. 18-cv-6626.

Counsel, please state your appearance.

MR. TOBY BUTTERFIELD: Good morning, your Honor. This is Toby Butterfield; I'm on the line with my colleague, Michael Rosenberg, and we represent plaintiffs. We're from the firm, Moses & Singer.

MR. HARDIN ROWLEY: Good morning, your Honor. My name is Hardin Rowley, and I'm here with Ray Dowd and Akbar Kahn, who is not admitted to practice yet but is a clerk with the firm. And we're representing the defendant channels.

HONORABLE KEVIN N. FOX (THE COURT): Good morning. This is Judge Fox.

The plaintiff wrote to me complaining about the responses to discovery demands. Has there been any change in circumstances since the writings were sent?

MR. BUTTERFIELD: Unfortunately -- this is Mr. Butterfield -- unfortunately not, your Honor. Since we last wrote we've attempted to conduct the meet-and-confer that I believe Mr. Dowd's letters said was required before contacting the Court. Of course, this is after we'd already obtained an order from Judge Carter on the motion

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to compel. But, anyway, my emails back -- the emails I received back from Dunnington law firm, they all said it appears we will be unable to conduct another conference before speaking to Judge Fox. And that's despite the adjournment that was requested. So we've not change, unfortunately.

THE COURT: All right. As I --

MR. ROWLEY: Your Honor, I respectfully disagree with that. We offered to meet and confer. The plaintiffs rejected that offer. And since that rejection, we produced documents. And I think our objections were reasonable. And they won't confer with us, and they didn't before submitting this letter.

THE COURT: When you say you --

MR. BUTTERFIELD: We received three documents.

THE COURT: When you say you submitted documents, are these beyond the documents that were referenced in response to, I think, two discovery demands only?

MR. ROWLEY: We produced documents in response to those demands, yes, your Honor.

THE COURT: To those two? Am I understanding correctly?

MR. ROWLEY: We've only -- we produced documents in response to the two discovery requests we did not object

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2 to.

3 THE COURT: Okay. All right, so as I reviewed
4 the correspondence that went to Judge Carter, the plaintiff
5 requested that the Court direct the defendants to respond
6 to the discovery demands. The order that Judge Carter
7 issued directs the defendant to respond. The defendant did
8 respond. The plaintiff doesn't like the response. And in
9 such a situation, Rule 37 tells you how you can proceed.
10 So if you want to make a motion under Rule 37, the
11 plaintiff is free to do that.

12 MR. BUTTERFIELD: We may do that, your Honor. But
13 I think that it's not quite accurate to say that the
14 defendants responded. The documents that they served
15 stated they were objection. And we haven't received
16 actually responses to any of the interrogatories.

17 THE COURT: The objection is a response. They
18 object to giving you whatever you're requesting. That's
19 the response. You don't like the response. And Rule 37
20 tells you what you can do in such a circumstance as that.

21 MR. BUTTERFIELD: Very well. We shall do so.

22 THE COURT: Very well.

23 Let's move now to the question of a schedule for
24 pretrial activities, which was also a matter raised in
25 correspondence. What is it that prevents you from being

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able to talk about and present jointly to me a schedule of the activities you need to complete pretrial?

MR. BUTTERFIELD: Succinctly, your Honor -- this is Mr. Butterfield -- we proposed dates for the conclusion of the various stages of discovery. And in our -- the Rule 26F conclusion -- the conclusion of the Rule 26F conference with defendants' counsel, they indicated that they would provide their proposed dates for the conclusion of those different stages of discovery. That was several weeks ago; and despite follow-up, we haven't received anything. So we can't submit a joint application. We could file something with you saying that we propose, but unfortunately, we're not getting any responses and we're not -- when we propose a meet-and-confer call to talk about it, we are told that appears to be not possible. So here we are.

THE COURT: All right, let me hear from defense counsel on that score.

MR. ROWLEY: Your Honor, I think there was some miscommunication. The partner that was working on this is now on paternity leave, and we can do the dates right now if that's easier on -- we can talk with plaintiffs' counsel immediately after the call. So we apologize for that.

THE COURT: I'll take direction from you. What

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is your pleasure? Do the parties want to confer outside my presence and then submit to me your proposal, or do we need to talk about dates, milestone dates right now?

MR. BUTTERFIELD: I -- this is Mr. Butterfield -- I'm fine if Mr. Hardin [sic] is prepared to call us straight after this call so that we can hear what they propose. We'll put it into our draft proposed order, and we'll submit it shortly. I think we don't need to take the Court's time for that. I accept what Mr. Hardin, that he'll call me straight afterwards.

THE COURT: Excellent.

MR. ROWLEY: And I will do that, your Honor.

THE COURT: All right. Those are the matters that were raised in the correspondence that I wanted to address with you this morning. Thank you very much. Good day.

MR. ROWLEY: Thank you, your Honor.

MR. BUTTERFIELD: Thank you, your Honor.

THE COURT: You're welcome.

(Whereupon, the matter is adjourned.)

C E R T I F I C A T E

I, Carole Ludwig, certify that the foregoing transcript of proceedings in the case of Actava TV, Inc., et al v. Joint Stock Company "Channel One Russia Worldwide," et al, Docket #18-cv-06626, was prepared using digital transcription software and is a true and accurate record of the proceedings.

Signature Carole Ludwig

Carole Ludwig

Date: March 30, 2019